

Filed for intro on 02/02/95
Senate Bill _____
By _____

House Bill No.HB0362
By Herron

AN ACT to amend Tennessee Code Annotated, Sections 9-6-301 through 305, to prohibit unfunded state mandates on local government; to create the State Mandates Commission; to enact the "Anti-Unfunded Mandates Act of 1995".

WHEREAS, there is intense interest in prohibiting unfunded state mandates on local government; and

WHEREAS, the Tennessee Constitution, Article 2, Section 24, prohibits the general assembly from passing a law of general application that requires a city or county to increase expenditures without the state providing its share of the costs; and

WHEREAS, the existing statutory regime found in Tennessee Code Annotated, Section 3-6- 301 - 305 which proscribes unfunded mandates and requires the general assembly to provide the state's share of the necessary expenditures caused by a law of general application is inadequate because neither the state's share is defined nor are local governments authorized to disregard unfunded mandates; and

WHEREAS, local governments must be granted the authority by the general assembly to declare a mandate unfunded; and

WHEREAS, local governments must be granted the authority by the general assembly to disregard unfunded mandates so that the Tennessee constitutional requirement in Article 2, Section 24, be made a reality; and

WHEREAS, the "Anti-Unfunded Mandates Act of 1995" grants local government the authority to prospectively nullify unfunded mandates; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The title of this act is, and may be cited as the "Anti-Unfunded Mandates Act of 1995".

SECTION 2. It is the intention of the general assembly to prohibit unfunded state mandates by granting local government the authority to disregard a mandate which lacks full funding as determined by local government.

SECTION 3. As used in this act, unless the context otherwise requires:

(1) "Mandate" means a legal requirement by statutory provision, executive order, or administrative rule or regulation issued by a statewide agency, which requires a local government to provide a public service or increase the level of a public service of an existing mandate. "Mandate" does not mean a public service or an increase in the level of a public service of an existing mandate required by federal law or state or federal court.

(2) "Full funding" means the amount of funding required by the affected local government to implement the mandate's requirements.

(3) "Prospectively nullify" means a decision by the legislative body of a local government that a state mandate or a portion of a state mandate may be disregarded because the mandate or the portion of the mandate lacks full funding.

SECTION 4. (1) A local government may prospectively nullify an unfunded mandate. A local government may only prospectively nullify that portion of a mandate which lacks full

funding. A local government's compliance with an unfunded mandate does not constitute a waiver of any portion of this act.

SECTION 5. (1) There is hereby created the Commission on State Mandates, hereinafter the commission, which shall consist of five (5) members as follows: the commissioner of finance and administration, the state treasurer, or their respective designees, and three (3) qualified private citizens appointed by the governor to staggered terms of three (3) years.

A. The governor shall designate one (1) member to serve as chairperson.

B. Service on such commission for a term shall not render a person ineligible for reappointment.

C. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general.

D. A per diem allowance of fifty dollars (\$50.00) shall only be paid to members for all meetings attended.

E. The governor shall appoint a replacement for the remainder of the term of any member unable to complete a term.

F. A majority of the commissioners shall constitute a quorum.

(2) The department of finance and administration and the department of general services will provide the equipment, supplies, and clerical assistance the commission reasonably requires.

(3) A. The commission may hold hearings at places of convenience to the parties concerned.

B. The commission may administer oaths and subpoena persons (including parties) as witnesses and may compel them to produce documentary evidence and testimony for hearings.

C. Hearings may be conducted on the basis of oral or written evidence.

D. Timely notice of the hearing and its time and place must be given to the parties, and copies of the notice of such hearing shall be posted at such places as the commission shall require.

E. The hearings shall be open to the public and the records of hearings shall be maintained and available for examination.

F. For the orderly transaction of the hearings, the rules of civil procedure as adopted by Tennessee in Tennessee Code Annotated, Sections 24-1-101, et seq. shall be used unless different rules are adopted by the commission.

(4) Either party may appeal the commission's determination to the Tennessee Court of Appeals. The standard of review is whether the commission's decision was "arbitrary and capricious."

SECTION 6. This act shall not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before its effective date.

SECTION 7. The provisions of this act shall be liberally construed to effectuate its purpose.

SECTION 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 9. This act shall take effect upon becoming a law, the public welfare requiring it.

AN ACT to amend Tennessee Code Annotated, Sections 9-6-301 through 305, to prohibit unfunded state mandates on local government; to create the State Mandates Commission; to enact the "Anti-Unfunded Mandates Act of 1995".

AN ACT to amend Tennessee Code Annotated, Sections 9-6-301 through 305, to prohibit unfunded state mandates on local government; to create the State Mandates Commission; to enact the "Anti-Unfunded Mandates Act of 1995".

AN ACT to amend Tennessee Code Annotated, Sections 9-6-301 through 305, to prohibit unfunded state mandates on local government; to create the State Mandates Commission; to enact the "Anti-Unfunded Mandates Act of 1995".

AN ACT to amend Tennessee Code Annotated, Sections 9-6-301 through 305, to prohibit unfunded state mandates on local government; to create the State Mandates Commission; to enact the "Anti-Unfunded Mandates Act of 1995".

AN ACT to amend Tennessee Code Annotated, Sections 9-6-301 through 305, to prohibit unfunded state mandates on local government; to create the State Mandates Commission; to enact the "Anti-Unfunded Mandates Act of 1995".

AN ACT to amend Tennessee Code Annotated, Sections 9-6-301 through 305, to prohibit unfunded state mandates on local government; to create the State Mandates Commission; to enact the "Anti-Unfunded Mandates Act of 1995".

AN ACT to amend Tennessee Code Annotated, Sections 9-6-301 through 305, to prohibit unfunded state mandates on local government; to create the State Mandates Commission; to enact the "Anti-Unfunded Mandates Act of 1995".

AN ACT to amend Tennessee Code Annotated, Sections 9-6-301 through 305, to prohibit unfunded state mandates on local government; to create the State Mandates Commission; to enact the "Anti-Unfunded Mandates Act of 1995".

AN ACT to amend Tennessee Code Annotated, Sections 9-6-301 through 305, to prohibit unfunded state mandates on local government; to create the State

Mandates Commission; to enact the
“Anti-Unfunded Mandates Act of 1995”.

AN ACT to amend Tennessee Code Annotated, Sections 9-6-301 through 305, to prohibit unfunded state mandates on local government; to create the State Mandates Commission; to enact the
“Anti-Unfunded Mandates Act of 1995”.